

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

STATE AUTOMOBILE MUTUAL  
INSURANCE COMPANY,

*Plaintiff,*

vs.

CC AGGREGATES LLC AND  
MONTY BELL,

*Defendants.*

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No. 1:24-cv-1133-DAE

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ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is a Report and Recommendation (“the Report”) (Dkt. # 16) submitted by United States Magistrate Judge Mark Lane. After reviewing the Report, the Court **ADOPTS** Judge Lane’s recommendations and **DENIES** Plaintiff’s Motion for Entry of Default Judgment Against Defendant CC Aggregates LLC (Dkt. # 11), and **GRANTS** Defendant CC Aggregates LLC’s Motion to Set Aside Default Judgment. (Dkt. # 14)

On December 18, 2024, Plaintiff requested, and the Clerk entered, an Entry of Default against Defendant CC Aggregates. (Dkts. ## 8, 9.) Plaintiff then moved for an entry of default judgment against CC Aggregates. (Dkt. # 11.) On December 21, 2024, Defendant CC Aggregates filed an Opposed Motion to Set

Aside the Clerk's Entry of Default. (Dkt. # 14.) On January 7, 2025, Plaintiff filed a notice informing that court that it does not oppose CC Aggregate's motion to set aside the default judgment. (Dkt. # 15.)

On February 11, 2025, the Magistrate Judge issued his Report, recommending that CC Aggregates' motion to set aside the entry of default be granted and State Auto's motion for default judgment be denied. (Dkt. # 16 at 4.) Further facts preceding this Order are laid out in Judge Lane's Report. (Id. at 1–2.) In the Report, Judge Lane determined there is good cause to set aside the entry of default. (Id. at 4.) In addition, Plaintiff does not oppose the request.

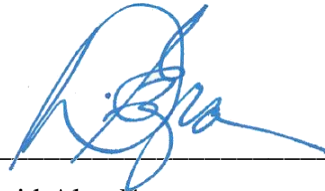
Objections to the Report were due within 14 days after being served with a copy. Where, as here, none of the parties objected to the Magistrate Judge's findings, the Court reviews the Report for clear error. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989). After careful consideration, the Court adopts the Magistrate Judge's Report. The Court finds the Magistrate Judge's conclusion that the entry of default judgment should be set aside is neither clearly erroneous nor contrary to law.

Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation (Dkt. # 16) as the opinion of the Court and **DENIES** Plaintiff's Motion for Entry of Default Judgment Against Defendant CC Aggregates LLC

(Dkt. # 11), and **GRANTS** Defendant CC Aggregates LLC'S Motion to Set Aside Entry of Default. (Dkt. # 14)

**IT IS SO ORDERED.**

**DATE:** Austin, Texas, March 10, 2025.

A handwritten signature in blue ink, appearing to read 'D. Ezra', is written over a horizontal line.

David Alan Ezra  
Senior United States District Judge